

Message Text

CONFIDENTIAL

PAGE 01 STATE 203257
ORIGIN L-03

INFO OCT-01 EUR-12 IO-13 ISO-00 CIAE-00 DODE-00 PM-05
H-01 INR-10 NSAE-00 PA-01 SP-02 SS-15 NSCE-00
SSO-00 ICAE-00 INRE-00 HA-05 /068 R

DRAFTED BY L/UNA:SBOND:MAB
APPROVED BY IO/UNP:PBRIDGES
IO/UNP:TNILES
L/AF:NELY
AF/S:JNACH
L/T:JBOYD

-----035229 110012Z /23

O 102327Z AUG 78
FM SECSTATE WASHDC
TO AMEMBASSY VIENNA IMMEDIATE
INFO USMISSION USUN NEW YORK IMMEDIATE

C O N F I D E N T I A L STATE 203257

FOR ARTHUR ROVINE, USDEL TO SUCCESSION OF STATES CONFERENCE

E.O. 11652: GDS

TAGS: PFOR, UN

SUBJECT: UN CONFERENCE ON SUCCESSION OF STATES IN RESPECT
OF TREATIES

REF: VIENNA 6982

1. PROPOSAL OF COUNCIL OF NAMIBIA TO HAVE ITSELF DECLARED
THE "PREDECESSOR STATE" TO NAMIBIA RATHER THAN SOUTH AFRICA
CANNOT BE SUPPORTED BY USDEL, AS ANY SUCH SUPPORT COULD
HAVE SIGNIFICANT DETRIMENTAL IMPACT ON DELICATE PROCESS OF
UN OPERATIONS DESIGNED TO LEAD TO NAMIBIAN INDEPENDENCE.
COUNCIL FOR NAMIBIA DEL SHOULD BE AWARE OF PRESENT TENUOUS
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 STATE 203257

SITUATION (UN SURVEY TEAM HEADED BY AHTISAARI PRESENTLY IN
NAMIBIA) AND SHOULD BE STRONGLY URGED NOT TO PROCEED AT
THIS TIME.

2. IN BRIEF, FOLLOWING SOME 18 MONTHS OF INTENSE NEGOTIA-
TIONS BETWEEN WESTERN CONTACT GROUP (US, FRANCE, UK, FRG
AND CANADA) AND SOUTH AFRICA, AFRICAN FRONT LINE STATES AND

SWAPO, ALL PARTIES AGREED TO WESTERN GROUP PROPOSAL FOR A UN PRESENCE IN NAMIBIA (UNTAG) IN ORDER TO SUPERVISE TRANSITION TO AN INDEPENDENT NAMIBIA. ONE OF MOST CONTENTIOUS ITEMS DURING NEGOTIATIONS AND STILL OUTSTANDING IS STATUS OF WALVIS BAY. WALVIS BAY IS ONLY DEEP-WATER PORT

IN NAMIBIA AND VITAL TO ITS VIABILITY AS A STATE. HOWEVER, THE QUESTION OF SOUTH AFRICAN SOVEREIGNTY OVER THE BAY IS COMPLEX. FOR THIS REASON, WESTERN GROUP HAS NOT ADDRESSED LEGAL ISSUES RELATING TO WALVIS BAY, BUT RATHER SUPPORTED A SECOND SECURITY COUNCIL RESOLUTION (THE FIRST BEING THAT ACCEPTING THE WESTERN PROPOSAL) WHEREIN THE COUNCIL SUPPORTED THE "REINTEGRATION" OF WALVIS BAY INTO NAMIBIA AND LEND ITS SUPPORT TO "STEPS NECESSARY TO ENSURE EARLY RE-INTEGRATION". SOUTH AFRICA HAS REJECTED THIS RESOLUTION. HOWEVER, BASED ON U.S. STATEMENT (ON BEHALF OF ALL MEMBERS OF WESTERN GROUP) IN COUNCIL THAT RESOLUTION WAS NOT MEANT TO PASS ON THE MERITS OF EITHER SIDE'S LEGAL ARGUMENTS AND THAT THE "STEPS" ENVISIONED WOULD BE NEGOTIATIONS BETWEEN THE SAG AND AN INDEPENDENT NAMIBIA, THE SAG NOW APPEARS WILLING TO MAINTAIN ITS AGREEMENT TO THE WESTERN PROPOSAL AND THE UNTAG PRESENCE.

3. THRUST OF COUNCIL FOR NAMIBIA STATEMENT IN REFTTEL APPEARS TO BE THAT AS SOUTH AFRICA GOVERNED NAMIBIA ILLEGALLY AFTER 1966, ITS 1977 ACTIONS WHICH PURPORTEDLY CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STATE 203257

SEPARATED WALVIS BAY FROM NAMIBIA MUST NOT BE ACCORDED THE LEGITIMACY WHICH WOULD ACCRUE SHOULD SOUTH AFRICA RATHER THAN COUNCIL FOR NAMIBIA BE RECOGNIZED AS "PREDECESSOR STATE". ISSUE COUNCIL RAISES THUS PURPORTS TO GO TO HEART OF LEGAL ISSUE OF LEGITIMACY OF SOUTH AFRICAN CLAIM OF SOVEREIGNTY OVER WALVIS BAY. IN ADDITION, U.S. POLICY HAS BEEN TO REJECT ACCORDING COUNCIL OF NAMIBIA THE ATTRIBUTES OF A STATE.

4. IN ORDER NOT TO DEVIATE FROM PLEDGE TO SAG NOT TO DEAL WITH LEGAL MERITS OF ISSUE, USDEL MUST NOT AGREE TO THIS PROPOSAL. LIKEWISE, USDEL SHOULD COORDINATE WITH DELS OF OTHER MEMBERS OF WESTERN GROUP (SEE PARA 1). WE WOULD EXPECT THAT, AFTER CONSULTING CAPITALS, IF NECESSARY, OTHER FOUR MEMBERS OF GROUP WOULD SUPPORT A COORDINATED POSITION OF OPPOSITION TO COUNCIL FOR NAMIBIA PROPOSAL. EVEN SHOULD IT BE OBVIOUS THAT THIS PROPOSAL WOULD CARRY BY VOTE, US (AND HOPEFULLY OTHER WESTERN STATES) SHOULD NOT HESITATE TO REGISTER CLEARLY OUR DISSENT.

5. IN OPPOSING PROPOSAL, USDEL MAY DRAW ON (AND MAKE EFFORTS TO GATHER COORDINATED SUPPORT OF OTHER FOUR GROUP

MEMBERS) THE FOLLOWING POINTS:

(A) IT IS INAPPROPRIATE FOR A CONFERENCE DEVOTED TO GENERAL ISSUE OF INTERNATIONAL LAW TO ENDEAVOR RESOLUTION OF PARTICULAR CASES AND SITUATIONS.

(B) WITHOUT ENTERING INTO SUBSTANCE OF VARIOUS LEGAL

CLAIMS, IT IS NOT UNIVERSALLY AGREED THAT WALVIS BAY WAS INCORPORATED INTO NAMIBIA IN 192,. THIS CONFERENCE IS NOT THE BODY BEST ABLE TO PASS UPON AND DECIDE SUCH COMPLEX FACTUAL AND LEGAL ISSUES.

(C) THE ISSUE OF NAMIBIA AND WALVIS BAY HAS JUST BEEN SUBJECT OF SECURITY COUNCIL RESOLUTION, WHICH PROVIDES FOR COUNCIL TO CONTINUE TO BE SEIZED OF QUESTION. IT IS CONFIDENTIAL

CONFIDENTIAL

PAGE 04 STATE 203257

INAPPROPRIATE AND PERHAPS HARMFUL FOR CONFERENCE TO SEEK ITS OWN RESOLUTION OF THIS ISSUE WHEN IT IS BEFORE SECURITY COUNCIL.

6. FOR SAME REASONS AS SET OUT ABOVE, USDEL SHOULD OPPOSE (AND SEEK WESTERN GROUP SUPPORT IN SO DOING) ARGENTINE ARTICLE ,9 TER, REPORTED IN VIENNA 7086, WHICH APPEARS AIMED AT SAME POINT AS COUNCIL FOR NAMIBIA STATEMENT, BUT UNDER GUISE OF GENERALLY APPLICABLE PROVISION. IF WE MISUNDERSTAND IMPORT OF THIS PROPOSAL, PLEASE ADVISE.

7. REQUEST USDEL REPORT RESPONSES OF WESTERN GROUP DELS TO POINTS IN THIS CABLE AND ALL FURTHER DEVELOPMENTS ON THIS ISSUE. VANCE

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: SECESSION, AGREEMENTS, MEETINGS
Control Number: n/a
Copy: SINGLE
Draft Date: 10 aug 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978STATE203257
Document Source: CORE
Document Unique ID: 00
Drafter: SBOND:MAB
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D780328-0494
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780876/aaaaclexe.tel
Line Count: 151
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 67ba5b65-c288-dd11-92da-001cc4696bcc
Office: ORIGIN L
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 78 VIENNA 6982
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 08 jun 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1774897
Secure: OPEN
Status: NATIVE
Subject: UN CONFERENCE ON SUCCESSION OF STATES IN RESPECT OF TREATIES
TAGS: PFOR, PGOV, PORG, UN
To: VIENNA
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/67ba5b65-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014